



Chad D. Rinde
Interim County Administrator

Office of the County Administrator
COUNTY OF YOLO

NATURAL RESOURCES DIVISION

625 Court Street, Room 202
Woodland, CA 95695
P: 530-666-8150 • F: 530-668-4029
www.yolonaturalresources.org
naturalresources@yolocounty.org

May 10, 2022

CEMEX Construction Materials Pacific, LLC
Attn: Steve Grace, West Region Director
2365 Iron Point Road, Suite 120
Folsom, CA 95630
roberts.grace@cemex.com

Sent via electronic mail

SUBJECT: Approval of Minor Modification (ZF #2022-0037) for CEMEX Mining and Reclamation Project (ZF #95-093)

CA Mine ID: #91-57-008

Property Address: 30288 State Route 16, Madison, CA 95653

Dear Mr. Grace,

On April 13, 2022, CEMEX submitted an application for a minor modification (ZF #2022-0037) to the approved mining plan (ZF #95-093) for the CEMEX Mining and Reclamation operation. This application was submitted in response to a letter from the County, dated April 7, 2022, documenting three specific conditions of concern on the project site. In the application, CEMEX provides responses to the County letter and requests a modification of the existing approvals to address matters in the manner recommended by the County.

A brief summary of each condition of concern identified by the County is provided below:

Condition of Concern Item 1: Temporary Loss of Agricultural Production – The County determined there are currently 184.8 acres of temporary loss of agricultural production on the site in excess of what was identified in the 1996 Solano Long-Term Off-Channel Mining Permit Application Environmental Impact Report (SCH# 96012034) (“EIR”), certified November 25, 1996, and in the California Endangered Species Act Memorandum of Understanding and Management Authorization (CESA No. 2081-1997-048-2) (“2081 MOU”), executed September 10, 1997.

Condition of Concern Item 2: Implementation of 2081 MOU – The County determined there is a potential gap of 4.2 acres of mitigation for impacts to habitat, and requested information substantiating 2.7 acres of hedgerows and 3.1 acres of restored habitat.

Condition of Concern Item 3: Implementation of 2012 Easement – The County determined there is a potential gap of 37.8 acres of permanently protected farmland.

To address these conditions, the County identified several recommended actions:

- Place 110 acres in Phase 1 into productive agriculture no later than September 30, 2022, thus re-establishing productive agriculture and hawk foraging habitat.
- Place 50 acres of unmined productive agriculture in the southerly portion of the Hutson parcel, adjoining State Route 16 on the south and the 2012 Conservation Easement boundary on the north, in permanent agricultural easement no later than September 30, 2022. The permanent conservation of each acre of non-prime farmland would be accepted as offsetting the temporary impact to two acres, resulting in 100 acres of credit from this action. This would provide permanent protection for existing productive agriculture and hawk foraging habitat.
- Remove Phase 7 (15 acres) from the approved mining area no later than March 31, 2023. This would result in a net reduction of the approved mining area and preclude mining impacts from occurring west of Interstate 505.

The County concluded that “[t]hese actions would result in immediate decreases in temporarily disturbed cropland and increases in permanent farmland and habitat benefits, totaling 225 acres (110 ac. + 100 ac. + 15 ac. = 225 ac.), thus reasonably resolving conditions of concern totaling 226.8 acres, leaving a minor differential of 1.8 acres (225 ac. – 226.8 ac. = -1.8 ac.) which may be further reduced by refined information regarding hedgerows and restored habitat.”

In the application submittal, CEMEX has provided opinions and responses relevant to each condition of concern, which the County appreciates. CEMEX also provided information and figures requested by the County to show the location of 3.2 acres of hedgerows and 5.7 acres of restored habitat, in partial fulfillment of the obligations for these items under the 2081 MOU. The County notes the differences in perspective expressed by CEMEX regarding the circumstances of each condition of concern, and notwithstanding these differences, concludes that the proposed minor modifications will resolve each condition of concern identified by the County. The County also notes that the additional acreage of restored habitat identified by CEMEX (5.7 acres of restored habitat area is 2.6 acres in excess of the 3.1 acres documented in the 2081 MOU) effectively erases the 1.8 acres “differential” noted above.

CEMEX has proposed the following to address the County’s conditions of concern and has also requested a minor phasing sequence change to allow dry mining on a maximum of 20 acres in what is currently identified as Phase 6:

Applicant Proposal #1: Place 110 acres in Phase 1 into productive agriculture no later than September 30, 2022, thus re-establishing productive agriculture and hawk foraging habitat. The County approves this proposal and notes it does not require a change to the current approved permits.

Applicant Proposal #2: Place ±50 acres of unmined productive agriculture in the southerly portion of the Hutson parcel, adjoining State Route 16 on the south and the 2012 Conservation Easement boundary on the north, in permanent agricultural easement no later than September 30, 2022. The County notes it does not require a change to the current approved permits and approves it as addressing, in part, the concerns above. The permanent conservation of each acre of non-prime farmland is accepted as offsetting the temporary impact to two acres, resulting in 100 acres of “credit” from this action. This provides additional permanent protection for existing productive agriculture and hawk foraging habitat.

Applicant Proposal #3: Remove Phase 7 (15 acres) from the approved mining area no later than March 31, 2023. This would result in a net reduction of the approved mining area and preclude mining impacts from occurring west of Interstate 505. The County notes this request does not require County approval at this time, pending concurrence from CEMEX to address this as a component of the major Mining and Reclamation Plan Amendment Project pending under ZF #2018-0015 (“pending Major Modification”) (see Condition of Approval 1 below).

Applicant Proposal #4: Change the approved mining phase sequence to allow dry mining on up to 20 acres of what is currently identified as Phase 6 while the County completes processing of the pending Major Modification (see Attachment A). As a result of the requested re-numbering of phases (see Attachment B), the 20-acre dry mining will take place in re-numbered Phase 5 immediately south of where mining in Phase 4 is currently underway. As described further below, this proposed Minor Modification is approved by action of this letter, subject to applicant acceptance of Conditions of Approval identified below.

The request for a minor modification in Applicant Proposal #4 is based on the following considerations:

Fact #1: Prior to July 2022, CEMEX must move to the next available area to begin dry mining to stay ahead of and develop a path forward for the dredge. Dry mining must be completed before the dredge can physically move (float) into a new mining area.

Fact #2: Under current approvals, including the most recently approved 2015 minor modification to the mining plan (ZF #2014-0039), CEMEX would need to continue dry mining to the east onto what is currently Phase 5. However, this area would become Phase 6 under the pending Major Modification. This area is located east of the large power transmission easement and is currently in agricultural production. This area is also closer to the residence located immediately east of the mine. To move into this area, CEMEX would need to make large investments in temporarily moving the dredge anchor point, installing additional overland conveyor infrastructure, and relocating a water supply well that is used for irrigation by Sagara Farms who manages the active farmland owned by CEMEX at the project site. CEMEX had not planned on these investments

given that the pending Major Modification would defer mining in this easterly location for many years. Sagara Farms had also not planned for disruptions of crop rotations in this area. Moreover, if CEMEX moves into this area this summer, then CEMEX would be mining in the wrong location should the pending Major Modification be approved. This would be inefficient and open up new areas of impact years before it is necessary.

Fact #3: Under the proposed Minor Modification, CEMEX would progress dry mining to the south onto a maximum of 20 acres of what is currently Phase 6. This area would become Phase 5 under the pending Major Modification. Therefore, CEMEX would begin mining in a limited area that is consistent with the pending Major Modification. This area is currently also in agricultural production, but CEMEX has affirmed they have been working closely with Sagara Farms for months to minimize disruption to adjacent agricultural operations and crop rotations. Further, CEMEX would not need to make large unanticipated investments for additional overland conveyor infrastructure or relocation of the water supply well that Sagara Farms uses for irrigation. CEMEX would also avoid having to remove and re-locate the temporary dredge anchor point back to the south, at significant expense and disruption to operations, should the pending Major Modification be approved.

Fact #4: There is no material difference associated with commencing with mining in the next phase, in either direction. The applicant already has approval to mine to the east and to the south. In the EIR, the phase that is currently Phase 4 was originally analyzed as Phase 6, the phase that is currently Phase 5 was originally analyzed as Phase 5, and the phase that is currently Phase 6 was originally analyzed as Phase 4. The phase order was modified in a 2003 permit amendment (ZF #2002-127) approved by the County. The proposed phasing sequence change would not accelerate or increase temporary or permanent land disturbance as compared to the current approved mining plan, and would be consistent with the phase order originally analyzed in the EIR. The change is intended to facilitate mining in a logical progression to the south (instead of to the east) for consistency with the pending Major Modification, without committing the County to approving the pending Major Modification.

Fact #5: The proposed request would require no deviations from the requirements of the County Mining Ordinance or the Surface Mining and Reclamation Act. All conditions of approval contained in the previous approval will remain in place.

Yolo County Code Sections 10-4.217 (Minor Modification) and 10-4.604 (Minor Modifications) provide that the County Administrator or his/her designee may approve minor modifications of mining plans if "it is found that such changes would be consistent with the conclusions of the certified EIR ..., and that such changes will not have a significantly adverse effect on the successful achievement of the public health and safety." On behalf of the County Administrator, and in accordance with these requirements, staff has reviewed and deliberated the proposed request to allow more efficient dry mining while processing of the pending Major Modification application by re-numbering Phase 5 to become Phase 6 and Phase 6 to become Phase 5, and hereby make the following findings:

Finding A: The proposed change does not substantially alter the intent, conditions, or outcome of the mining plan (Section 10-4.217).

Finding B: The proposal would not affect any other component of the approved mining operation including allowed tonnage, mining methods, maximum depth of mining, processing operations, use of settling ponds, use of water or energy, truck traffic, duration or intensity of temporary impacts, or hours of operation.

Finding D: The proposed request requires no exceptions to the County mining standards (Section 10-4.603).

Finding E: The proposed request is consistent with the conclusions of the EIR (Section 10-4.604). No changes to the project EIR are required as supported by the conclusions reached in a CEQA analysis completed by staff.

Finding F: The proposed request will not have a significantly adverse effect on the public health or safety (Section 10-4.604).

Finding G: The proposed request is consistent with the Yolo County General Plan.

Finding H: The proposed request is in compliance with the CEMEX Mining and Reclamation Permit (ZF #95-093) and Development Agreement #96-287, as amended May 5, 2001, and April 15, 2003.

Accordingly, the proposed request is considered a minor modification consistent with the requirements of Sections 10-4.217 (Minor Modification), 10-4.603 (Amendments: Exceptions), and 10-4.604 (Minor Modifications) of the County Mining Ordinance (Yolo County Code Title 10, Chapter 4).

The four requests made by CEMEX are approved by action of this letter, subject to acceptance of the following **new conditions of approval**. The applicant shall document implementation of, and ongoing compliance with, these new conditions as part of the required annual operator compliance report. These conditions apply, in addition to all other conditions of the underlying permits and approvals:

1. Modification of current approved Phase 6 to become Phase 5, and current approved Phase 5 to become Phase 6, and authorization to commence dry mining on a portion of new Phase 5 totaling a maximum of 20 acres due south of the current area of mining in current Phase 4 is hereby approved and such modifications shall be noted on the approved plans and shall be initialed by the Director pursuant to Section 10-4.604.
2. The applicant shall complete field leveling and plant raptor-friendly crops on a minimum of 110 acres in Phase 1 no later than September 30, 2022. The applicant shall provide the County with verification from the Yolo Habitat Conservancy that the proposed crops and crop rotation will provide acceptable foraging habitat for Swainson's hawk.
3. The applicant shall place 50 acres of unmined productive agriculture in the southerly portion of the Hutson parcel, adjoining State Route 16 on the south and the 2012 Conservation

Easement boundary on the north, in permanent agricultural easement no later than September 30, 2022. The terms of the easement shall be satisfactory to the County and shall ensure crops and crop rotation will provide acceptable habitat for Swainson's hawk.

4. Implement hedgerow planting to provide required vegetative cover within a continuous uninterrupted band along the north boundary of the west half of Phase 1 and the entire west boundary between Phase 1 and Phase 2. The width of the new hedgerow planting shall match the width of the existing hedgerow plantings on the north. If the PG&E powerline easement prohibits the planting of species identified for the rest of the hedgerow, alternative native species may be proposed for the powerline easement right-of-way area. The design shall be approved by the County with input from the Cache Creek Area Plan Technical Advisory Committee's Riparian Biologist. The applicant shall submit design plans (including proposed native species and irrigation) for County review and approval no later than September 30, 2022. All approved improvements shall be implemented within 90 days of County approval.
5. Throughout the life of the mining and reclamation approvals, the applicant shall annually monitor and actively maintain the hedgerows.
6. Throughout the life of the mining and reclamation approvals, the applicant shall annually monitor and actively maintain the 5.7 acres of restored habitat.
7. The applicant was required under the 2081 MOU to dedicate the Restored Habitat property to the County in fee title no later than 1998. To address this outstanding commitment, the applicant shall make an irrevocable offer of dedication (IOD) to the County no later than September 30, 2022 (with a deadline for acceptance by the County no earlier than August 11, 2027, which is coincident with the expiration of the approved permits) to dedicate to the County, in fee title, the fenced restored habitat area totaling 5.7 acres, including ongoing maintenance to the County's satisfaction until the dedication is executed. If the current approved permits are extended, as requested in the pending Major Modification application, the deadline for acceptance of the IOD shall be extended to align with the new permit expiration or other equivalent assurances of future dedication (e.g., amendment of this commitment into the revised Development Agreement) on a timetable acceptable to the County shall be made. The parties agree the deadline for acceptance of the IOD, and discussion of connecting this property to subsequent trail easement dedications and/or substituting this property for other equivalent land that is connected to future land dedications, shall be discussed in concert with Development Agreement negotiations pertinent to the pending Major Modification.
8. No later than ten days after the effective date of this approval, CEMEX shall submit an amendment to the pending Major Modification application requesting to modify Mining and Reclamation Permit ZF #95-093 to: a) remove Phase 7 (and any related activity west of Interstate 505 from the project boundary and approvals); and b) identify additional proposed actions to resolve temporary impacts to croplands in excess of the maximum of 126 acres assumed in the 1996 project EIR, or request a change in the maximum area of land

disturbance identified as an element of the project in the project EIR to a feasible amount and provide substantiation of the operational reasons for the revised acreage maximum.

9. The combined 225-acre farmland easement area (2012 Easement totaling 175 acres and new conservation easement totaling 50 acres), shall be maintained in active agricultural production unless fallowing is required and/or beneficial for agricultural purposes. Fallowing for non-agricultural purposes is prohibited. Fallowing of any portion of the property for greater than one year requires approval of the Agricultural Commissioner.
10. The applicant may not withdraw or unreasonably delay processing of the pending Major Modification.
11. The applicant shall take all necessary steps to A) re-designate the mining site and plant as "place of sale" for the purposes of establishing the retail sales location and calculating the sales tax obligations of the operation, or B) compensate the County for the equivalent of the County's portion of sales tax revenues that would be generated from CEMEX's aggregate sales on a per ton basis. Reinstatement of the sales tax share to Yolo County, or obligation for equivalent compensation, shall commence on October 1, 2022, and shall extend for the life of the Mining and Reclamation permit approval (including any subsequent amendment or extension). Payment of equivalent compensation shall be due with the first quarter payment of per-ton gravel fees every March 31st (unless subsequently amended by the County). The parties agree this obligation will be integrated into the Development Agreement in conjunction with any amendments that occur relevant to final action on the pending Major Modification.
12. In compliance with approved mining and reclamation permit conditions 59 and 61.5 the applicant shall engage the services of a qualified biologist to undertake a biological resources assessment of the new (renumbered) Phase 5 area prior to commencement of mining in that phase. Results shall be presented to the County demonstrating no impacts to special status species.

Pursuant to Sections 15162 and 15164 of the CEQA Guidelines, the County of Yolo has reviewed the previously certified project-level EIR that is relevant to the proposed project. The County has determined that no changes or additions are necessary, and none of the conditions described in CEQA Guidelines Section 15162 calling for preparation of a subsequent EIR have occurred. As directed in the CEQA Guidelines, no further action is necessary. The proposed minor modifications fall within the scope of the previously certified Final EIR:

CEQA Finding: There are no components of the proposed minor modification that will result in new significant impacts or a substantial increase in the severity of previously identified significant impacts that would require substantial revisions to the EIR.

CEQA Finding: There are no changes to the circumstances under which the proposed project will be undertaken that would require revisions to the EIR due to new significant environmental impacts

or a substantial increase in the severity of previously identified significant impacts.

CEQA Finding: There is no new important information relevant to the proposed project that was not previously known or could have been known with the exercise of reasonable diligence at the time the EIR was certified that shows new significant impacts, substantial increases in the severity of previously identified significant impacts, previously infeasible mitigation measures or alternatives that are now feasible, or considerably different more effective mitigation that the project proponent declines to adopt.

In accordance with Section 10-4.604 and pursuant to Section 10-4.507, notification of this decision shall be mailed to the applicant and all property owners and property occupants located within 300 feet of the exterior boundaries of the project site; posted online at www.yolonaturalresources.org; and published in a newspaper notice. Further, a notice of determination will be filed with the County Clerk pursuant to CEQA Guidelines Sections 15094 and 15373.

This decision shall become final within 15 days of the date of issuance (this shall be known as the effective date) unless a written appeal is filed with the Clerk of the Planning Commission pursuant to Section 10-4.1001 of the County Reclamation Ordinance. The approval document and all related project documents are available for public review online at www.yolonaturalresources.org or in person at the offices of the Yolo County Department of Community Services (292 West Beamer Street, Woodland, CA 95695) during regular business hours. Questions may be directed to me at Elisa.Sabatini@yolocounty.org or (530) 406-5773.

Sincerely,



Elisa Sabatini
Manager of Natural Resources

Enclosures: Attachment A – Site Plan for Phase 6 Dry Mining Area
Attachment B – Mining Phasing Renumbering Figure

Copied: Yasha Saber, COMPASS Land Group
JD Trebec, Yolo County Department of Community Services
Heidi Tschudin, TSCHUDIN CONSULTING GROUP

ACKNOWLEDGMENT of CONDITIONS of APPROVAL for ZONE FILE #2022-0037

I hereby accept and agree to implement the Conditions of Approval as set forth above, confirm I represent the applicant and property owner, and confirm I have the proper authority to do so.

Signature: _____

Printed Name of Signatory: _____

Title of Signatory: _____

Contact Phone for Signatory: _____

Email for Signatory: _____

Date of Signature: _____

Please sign and return this page to County Natural Resources Division staff.

ATTACHMENT A

SITE PLAN FOR PHASE 6 DRY MINING AREA

(Figures 3 & 4 from Applicant's Application Materials)

Figure 3
Site Plan for Interim
Phase 6 Dry Mining Area

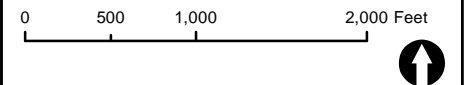
CEMEX Cache Creek
Yolo County, California

- Legend:**
- Yolo County Parcel
 - - - Easement Boundary
 - ▭ 1996 Rec Plan Boundary
 - ▬ Phase Boundary
 - ▭ Interim Phase 6 Dry Mining Area (18.4 Acres)

Note:
 The Interim Mining Area can be expanded up to a maximum of 20 acres. The Interim Mining Area will be a part of Phase 5 of the Mining and Reclamation Plan Amendment project that is pending under ZF#2018-015.

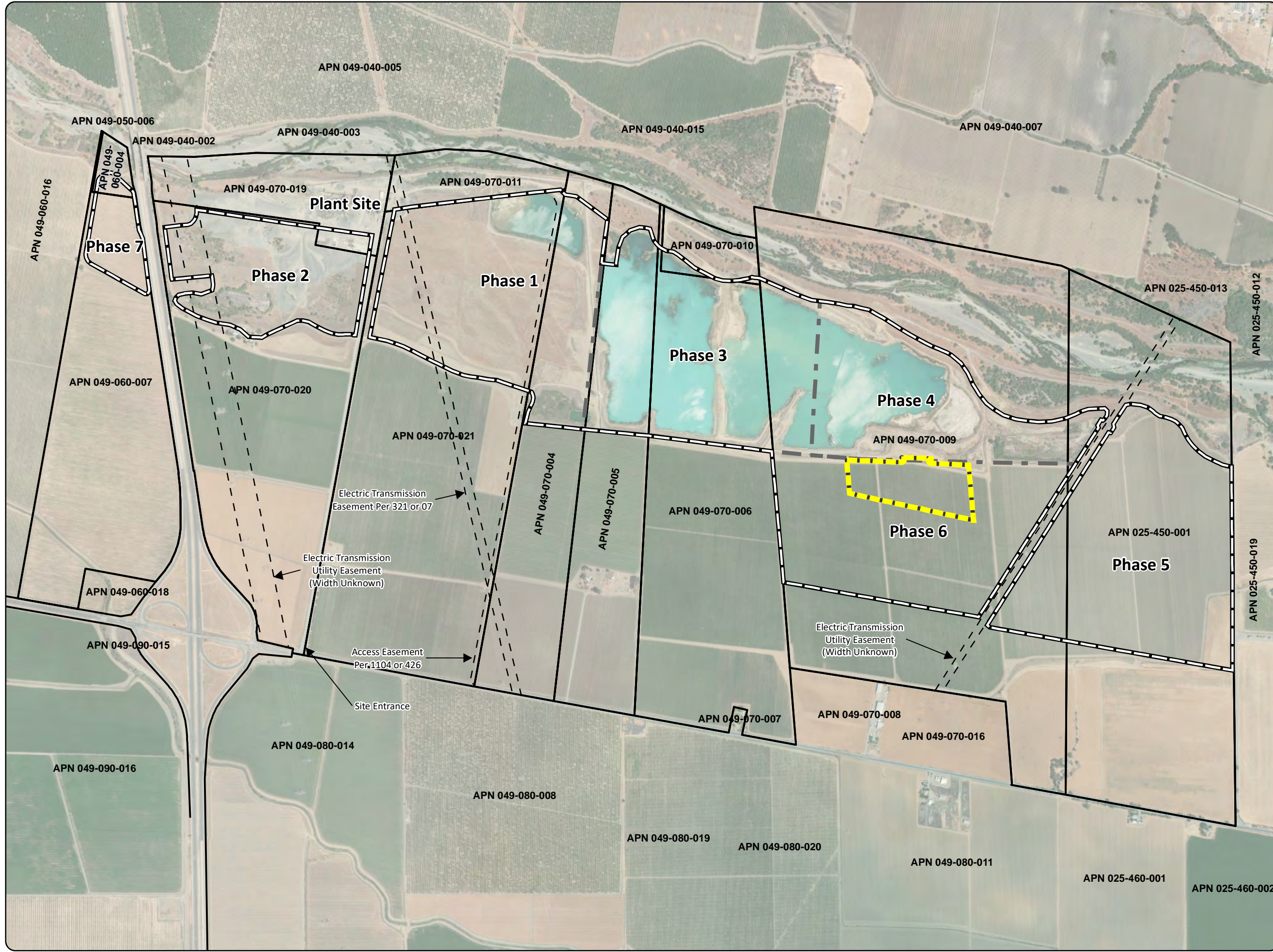
4/12/2022

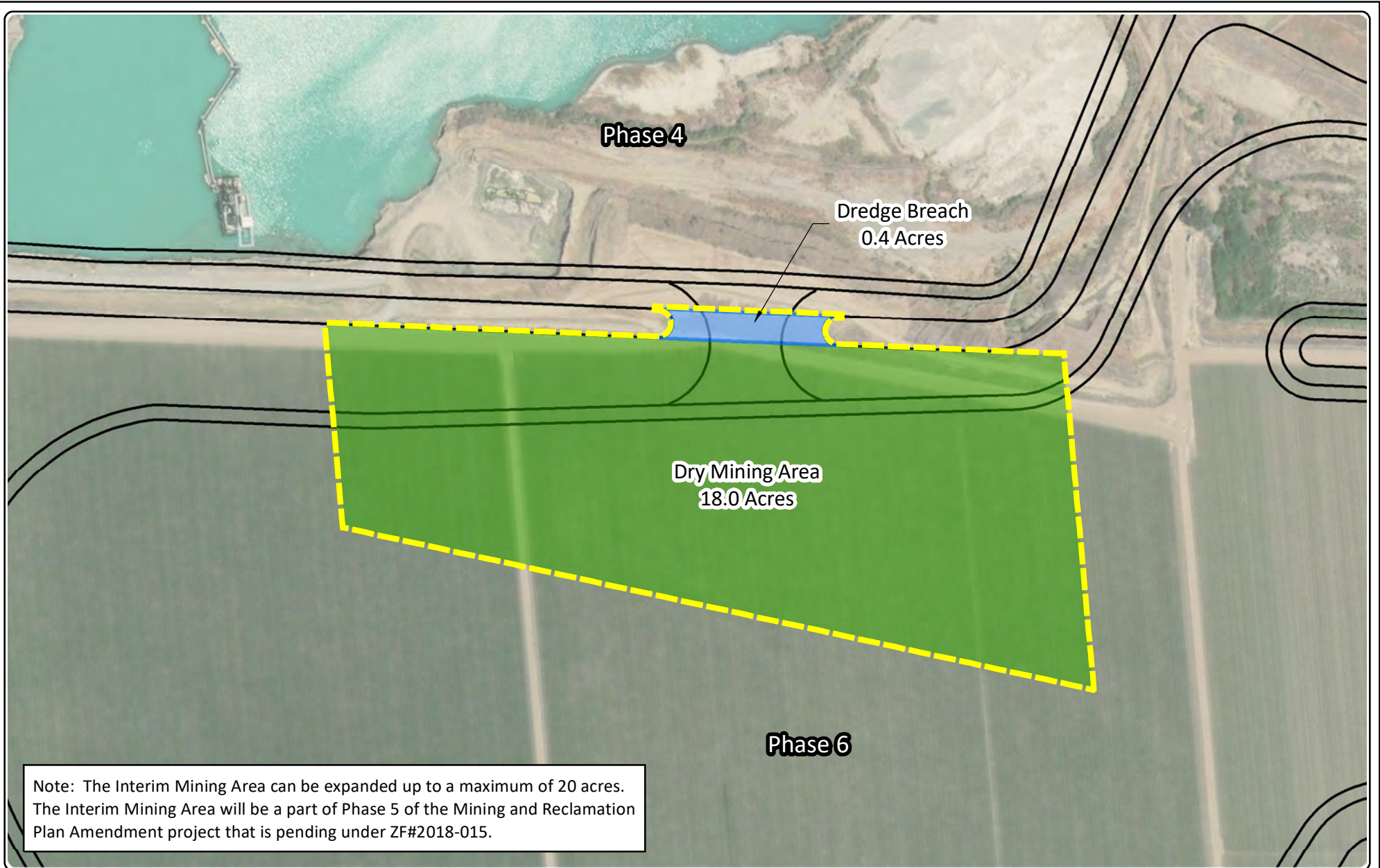
Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



Disclaimer: The data was mapped for planning purposes only. No liability is assumed for accuracy of the data shown.

Prepared by: Sage Thurmond, Compass Land Group
 3140 Peacekeeper Way #102, McClellan Park, CA 95652





Phase 4




Dredge Breach
0.4 Acres

Dry Mining Area
18.0 Acres

Phase 6

Note: The Interim Mining Area can be expanded up to a maximum of 20 acres. The Interim Mining Area will be a part of Phase 5 of the Mining and Reclamation Plan Amendment project that is pending under ZF#2018-015.

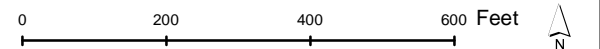
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Legend:	
	Interim Phase 6 Dry Mining Area (18.4 Acres)
	Dredge Breach (0.4 Acres)
	Dry Mining Area (18.0 Acres)

Detail for Interim Phase 6 Dry Mining Area
CEMEX Cache Creek
Yolo County, California

Figure 4 **4/12/2022**

Disclaimer: The data was mapped for planning purposes only. No liability is assumed for accuracy of the data shown.



Projects\012 - CEMEX\Cache Creek\2022 Minor Mod\Detail for Interim Phase 6 Dry Mining Area.mxd

ATTACHMENT B

MINING PHASING RENUMBERING FIGURE



(Figure 5 from Applicant's Application Materials)

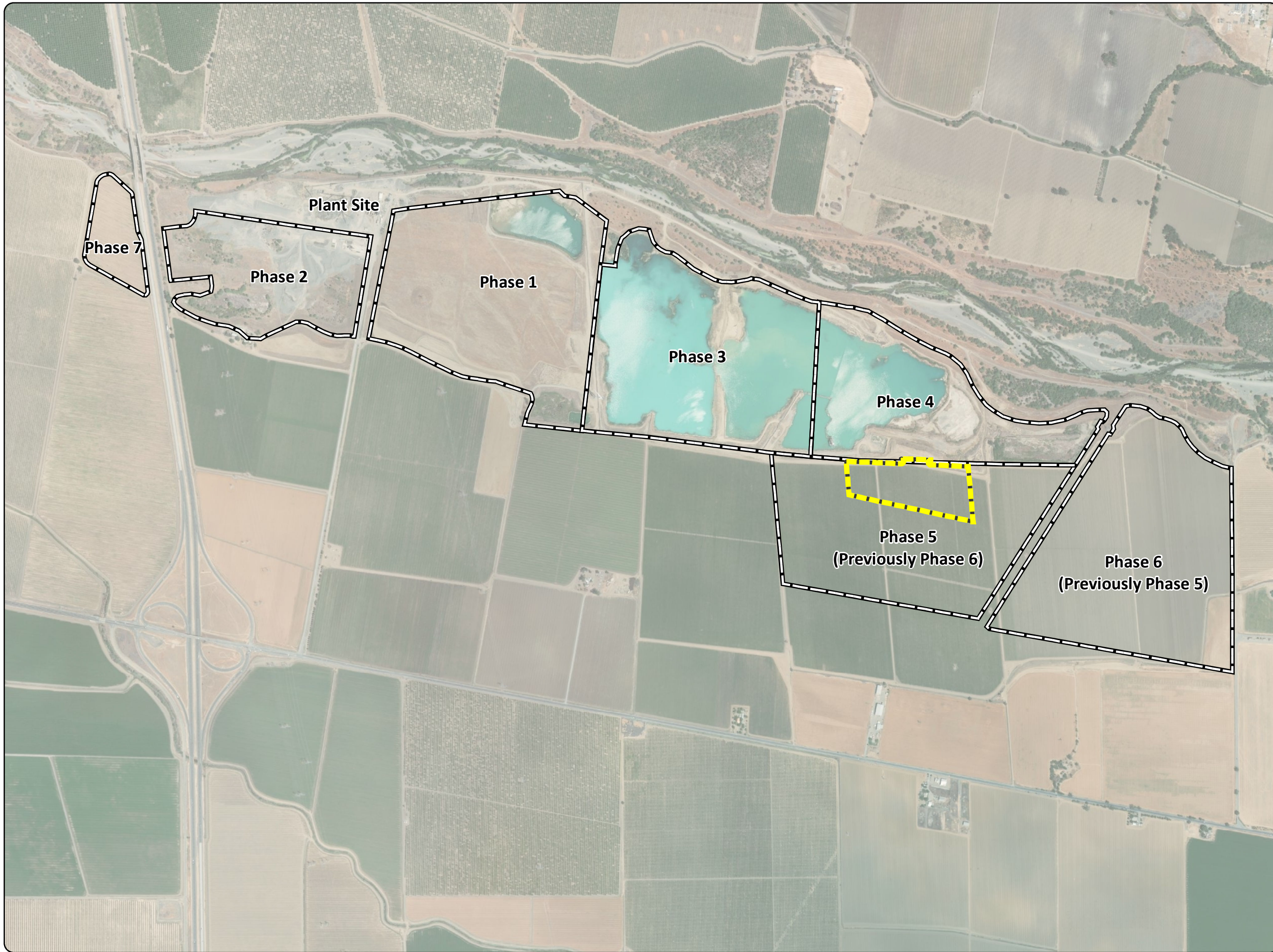
Figure 5

Substitution of
Phase 5 and 6

CEMEX Cache Creek
Yolo County, California

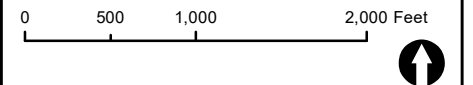
Legend:

-  Rec Plan Phase
-  Interim Dry Mining Area



4/25/2022

Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



Disclaimer: The data was mapped for planning purposes only. No liability is assumed for accuracy of the data shown.

Prepared by: Sage Thurmond, Compass Land Group
3140 Peacekeeper Way #102, McClellan Park, CA 95652

